

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO.832 OF 2003
IN
SUMMARY SUIT NO.1739 OF 2003

Bombay Intelligence Sec.
India Limited Plaintiff

versus

Vignesh Impex Pvt. Ltd. Defendant

Mr.R.D.Suvarna for plaintiff.

Mr.K.T.Jagose for defendant.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 12th July 2005

PC :

1. The plaintiff is a Security Guards Agency. It is filing this suit invoking Order XXXVII of the CPC for recovering a sum on a written contract for providing security guards to the defendant factory. The terms and conditions according to the plaintiff are evidenced by a written contract at Exhibit-A. The charges are mentioned therein. At the foot of Exhibit-A, the defendants were to sign accepting the terms. According to the plaintiff, the terms were accepted and therefore, guards have been sent in

pursuance thereof. However, charges for the month of January 2001, February 2001 and March 2001 have not been paid. Accordingly, a demand was raised and by letter at Exhibit-C dated 4th April 2001, the defendant agreed to pay the unpaid bills within a period of one week from the date of said letter. The amount was not paid and therefore, a demand notice was sent on 18th December 2001.

2. In response to this notice the advocate for defendant gives a reply in which in para no.1 it is admitted by the defendants that security guards were provided but claim could not have been raised, according to the defendants, on the Director of Company. He denies of giving any assurance to clear the alleged dues. That apart, a grievance is made that the guards were not provided on time and that there were lapses in the security.

3. There is a further letter of 11th June 2002 in which the demand is reiterated by the plaintiff.

4. In my view, letter at Exhibit-A dated 22nd April 1998 clearly states that duration of the

contract is one year. The said letter cannot be said to be a contract inasmuch as it records certain terms unilaterally determined by the plaintiff. It is not averred in the plaint that this contract was renewed. If the contract was renewed, as indeed it is according to the plaintiff, then no documents in that behalf are forth-coming. Acknowledgement would not carry the matter any further in the absence of written contract setting out terms and conditions and more particularly it's subsistence on the relevant date. Triable issues arise for consideration. Unconditional leave to defend. Suit transferred to the list of commercial causes. Usual directions to file written statement, discovery and inspection.

(S.C.DHARMADHIKARI, J.)